

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

McKINLEY KERR-FLETCHER,

Plaintiff,

Case No. 16-cv-11030

Hon. Matthew F. Leitman

v.

T. SHULTZ,

Defendant.

**ORDER (1) GRANTING DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT (ECF #10) AND (2) DISMISSING PLAINTIFF'S
COMPLAINT (ECF #1) WITHOUT PREJUDICE**

In this action, Plaintiff McKinley Kerr-Fletcher (“Kerr-Fletcher”), a prisoner confined in the custody of the Michigan Department of Corrections, brings a civil-rights complaint against Defendant T. Shultz (“Schultz”). (*See* Compl., ECF #1.) Among other things, Kerr-Fletcher alleges that Schultz violated his (Kerr-Fletcher’s) Eighth Amendment rights. (*See id.*)

On May 10, 2016, Schultz filed a motion for summary judgment (the “Summary Judgment Motion”). (*See* ECF #10.) On May 11, 2016, the assigned Magistrate Judge entered a written order in which she directed Kerr-Fletcher to file a response to the Summary Judgment Motion by no later than June 1, 2016. (*See* ECF #11.) Kerr-Fletcher did not file any response by that date, nor has he since filed a response to the Summary Judgment Motion. (*See* Dkt.)

On November 29, 2015, the assigned Magistrate Judge issued a Report and Recommendation in which she recommended that the Court (1) grant the Summary Judgment Motion and (2) dismiss Kerr-Fletcher's Complaint without prejudice due to his failure to exhaust his administrative remedies (the "R&R"). (*See* ECF #15.) At the conclusion of the R&R, the Magistrate Judge informed Kerr-Fletcher that if he wanted to seek review of her recommendation, he needed to file specific objections with the Court within fourteen days. (*See id.* at 9-10, Pg. ID 117-18.)

Kerr-Fletcher has not filed any objections to the R&R. As the Magistrate Judge specifically warned him in the R&R (*see id.*), this failure to file objections waives any further right to appeal. *See Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Moreover, the failure to object to an R&R releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985).

Accordingly, because Kerr-Fletcher has failed to file any objections to the R&R, **IT IS HEREBY ORDERED** that the Magistrate Judge's recommendation is **ADOPTED**.

IT IS FURTHER ORDERED that the Summary Judgment Motion (ECF #10) is **GRANTED** and Kerr-Fletcher's Complaint (ECF #1) is **DISMISSED WITHOUT PREJUDICE**.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: December 21, 2016

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 21, 2016, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

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